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Refugees, Border Security, and International Law

Testimony of

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Good afternoon. My name is Joshua Hoyt. I am the executive director of the Illinois Coalition for Immigrant and Refugee Rights. ICIRR is a coalition of more than 100 member organizations through the state of Illinois that works to build the power and capacity of immigrant and refugee communities and to advocate for policies that will move immigrants and refugees toward full participation in our society. Thank you for the opportunity to speak before this subcommittee.

Our nation's immigration system should reflect our nation's values of family, hard work, and fairness. And our elected officials should have the courage and wisdom to bring our laws in line with our values. Unfortunately, neither has been the case.

Our country is now dealing with the consequences of more than 20 years of half-baked immigration policies from Administrations and Congresses led by both parties. Whether we like to admit it or not, our nation relies heavily on immigrant workers, largely but not exclusively from Mexico. In Illinois alone, our workforce is aging and nearing retirement. Without new immigrant workers, our workforce would have shrunk from 2000 to 2005. Instead, our workforce grew by 2.7%, due to a 23% increase in foreign-born workers. These workers filled 27.7% of the 21,000 new health diagnosis jobs, 42.4% of the 53,000 new food preparation and serving jobs and 100% of the new managerial jobs in our state.

Our workforce is aging and baby-boomers are retiring. After decades of stability, our senior ratio is poised to skyrocket. From roughly 24 seniors per 100 working age residents, the ratio will surge in the coming decade to 32 and in the decade after that will hit 41. Absorbing this sudden 30% jump in the senior ratio in a single decade will be a terrific jolt. But the jump is repeated in TWO consecutive decades, testing America like never before. Who will replace our aging workforce? Immigrants.

Yet we offer few legal channels for these workers to come to the United States. Permanent employment visas are limited to 140,000 per year, and involve employers going through an arduous, multi-year process with the Department of Labor and the Department of Homeland Security. Temporary worker programs involve similar hurdles that discourage farms and other employers from participating.

But these workers still come, and many stay. Back in 1986, the Reagan Administration tried to address the unheard-of undocumented population of 3 million by enacting the Immigration Reform and Control Act. Many of the former undocumented immigrants who gained legal status under that law are leaders in their communities, and indeed throughout our coalition.

But IRCA failed to provide any legal way for migrant workers to come to our country to work. Even worse, it outsourced immigration enforcement to employers, who now needed to check their workers' documents. The federal government, in both Democratic and Republican administrations, has paid only lip service to workplace enforcement. The number of employers prosecuted for unlawfully employing immigrants dropped from 182 in 1999 to four in 2003, and fines collected declined from \$3.6 million to \$212,000. In 1999, the United States initiated fines against 417 companies. In 2004, it issued fine notices to three. ICE fines on employers across the U.S. from FY02 to FY05 ranged between \$6,00 and \$73,000, hardly a serious enforcement plan.

As the economic reality of our labor needs sank in and workforce enforcement tailed off, so did the incentives for employers to take immigration sanctions seriously.

In the mid-1990s, the North American Free Trade Agreement and internal reforms in Mexico further drove Mexican migration northward. Farmers saw the market for their crops undercut by cheaper US corn were also displaced from the land by agricultural reforms. NAFTA sought to integrate economies of US, Canada, and Mexico, but did not integrate labor markets. At the same time, however, the Clinton Administration was cracking down on the Mexican border, massing resources in heavily-trafficked areas like El Paso and San Diego in Operation Gate Keeper. These operations didn't stop people from coming; they only drove migrants to less patrolled, more remote, and more dangerous areas in the desert, especially in Arizona. The numbers of deaths on the border skyrocketed, as did the prices that smugglers could charge. And the incentives for those migrants who made it across to go back, only to endure another, still more dangerous crossing, evaporated. Instead, undocumented migrants settled in the US, and increasingly have brought their families with them.

Further complicating the mix were such laws as the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), which closed off many legal avenues for undocumented immigrants to gain legal status, such as suspension of deportation, even if they have been in the US for many years and have strong family ties here. IIRAIRA furthermore set up bars and traps that prevent many otherwise eligible immigrants from getting green cards, including the ten-year bar that now prevents Tony Wasilewski's wife from returning to the US.

So here we are in 2007. As a result of failed policies on both sides of the border, our nation's undocumented population has ballooned to 12 million people. These are people who work hard in crucial sectors of our economy, who own homes and businesses, who are raising families and paying taxes. Yet for all their work and all their contributions, they cannot even get driver's licenses in most states and are under constant threat of deportation and separation.

We have immigration policies that are severely out of alignment with our trade policies and economic needs. We have enforcement policies that clearly are not working and seemed designed to fail. As documented by Princeton Professor Douglas Massey, our border enforcement budget increased tenfold from 1987 to 2002, and our Border Patrol personnel tripled, yet the likelihood of someone getting caught at the border has plummeted. Yet Congress and the Bush Administration want to spend still more money on controlling the border and even build a border fence, fool's errands that will accomplish nothing without real reform of our immigration policies. And, in the absence of any real federal resolution to this situation, we have local communities trying to figure out what to do with their new immigrant populations—all too often polarizing against them, to the detriment of the whole community.

ICIRR supports a comprehensive approach to addressing our immigration crisis. For a complex issue like immigration, only comprehensive reform can meet our labor needs, enhance our national security, reunite our families, address the underlying motivations for migration, and uphold our nation's values. ICIRR worked with other immigrant advocacy groups throughout the nation on a series of principles for any real reform to our immigration crisis. These principles call for the following:

- **Providing a Path to Permanent Resident Status and Citizenship for All Members of Our Communities.** Our immigration policy needs to be consistent with reality. Most immigrants are encouraged to come to the United States by economic forces they do not control. Immigrants bring prosperity to this country, yet many are kept in legal limbo. Legalization of the undocumented members of our communities would benefit both immigrants and their families and the U.S.-born, by raising the floor for all and providing all with equal labor protections.
- **Reuniting Families and Reduce Backlogs.** Immigration reform will not be successful until we harmonize public policy with one of the main factors driving migration: family unity. Currently families are separated by visa waiting periods and processing delays that can last decades. Comprehensive immigration reform must strengthen the family preference system, by increasing both the number of visas available both overall and within each category. In addition, the bars to reentry must be eliminated, so that no one who is eligible for an immigrant visa is punished by being separated from their family for many years.
- **Providing Opportunities for Safe Future Migration and Maintaining Worker Protections.** With respect to worker visas, we need a “break-the-mold” program. Such a program must include: legal visas for workers and their families; full labor rights (such as the right to organize and independent enforcement rights); the right to change jobs; and a path to permanent residence and citizenship. A regulated worker visa process must meet clearly defined labor market needs, and must not resemble current or historic temporary worker programs. The new system must create a legal and safe alternative for migrants, facilitate and enforce equal rights for all workers, and minimize the opportunities for abuse by unscrupulous employers and others.
- **Respecting the Safety and Security of All in Immigration Law Enforcement.** Fair enforcement practices are key to rebuilding trust among immigrant communities and protecting the security of all. Any immigration law enforcement should be conducted with professionalism, accountability, and respect. Furthermore, there should be effective enforcement of laws against human trafficking and worker exploitation.
- **Recognizing Immigrants’ Full Humanity.** Immigrants are more than just workers. Immigrants are neighbors, family members, students, members of our society, and an essential part of the future of the United States. Our immigration policies should provide immigrants with opportunities to learn English, naturalize, lead prosperous lives, engage in cultural expression, and receive equitable access to needed services and higher education. Support for immigrants must also include adequate resources to provide for decent, safe and affordable housing to help meet the critical housing needs of the 2.2 million – one in five – immigrant families residing in the U.S.
- **Restoring Fundamental Civil Rights of Immigrants.** Since September 11, 2001, implementation of sweeping law enforcement policies have not only failed to make us safer from future attacks, but undermined our security, while eroding fundamental civil

liberties. Failure to protect these fundamental rights goes against the core values of a democracy, and, therefore, the United States. For the benefit of everyone, and not just immigrants, these basic rights must be restored and protected.

- **Protecting the Rights of Refugees and Asylees.** The United States has always been viewed as a safe haven for those fleeing persecution. Yet, since September 11, 2001, significantly fewer refugees have been admitted. The U.S. government has an obligation to remove barriers to admission and save the lives of thousands of people across the world who are fleeing for their lives. In addition, our current policies treat many asylees unequally based on their country of origin. Our country must ensure fair and equal treatment of individuals and their family members seeking asylum, and end the inhumane detention and warehousing of asylum seekers.

In the House, Rep. Luis Gutierrez, Rep. Jeff Flake, and former Rep. Jim Kolbe have worked with their Senate counterparts, Sen. Edward Kennedy and Sen. John McCain, to craft legislation that would incorporate these basic elements. During the last Congress they introduced the Secure America and Orderly Immigration Act.

This past March, Reps. Gutierrez and Flake followed up by introducing H.R. 1645, the STRIVE Act. Like Secure America, STRIVE included many of the crucial provisions that must go into comprehensive reform:

- A pathway for undocumented immigrants who are contributing to our economy and community to earn legal status and eventually US citizenship—a pathway that would have enabled Janina Wasilewski to apply, reopen her deportation case, and gain legal status--as well as the DREAM Act for undocumented students and the AgJOBS bill for agricultural workers;
- Increases in visa allocations that would cut through the long backlogs that many would-be legal immigrants now face;
- Temporary worker provisions that would enable those who want to come to the US to work an orderly process to match up with the employers who need them, but that would also protect these workers and all workers in our country from abuse and exploitation;
- Grant programs to assist immigrants in learning English and preparing for citizenship, and to assist local communities with the impact of new immigration;
- Enforcement provisions that are generally reasonable and targeted at those who would do harm to our communities and our nation.

We would have preferred that several sections not have been included in STRIVE, including the “touch-back” requirements for legalizing immigrants, the vast expansion of detention beds, and the authorization of local police to enforce federal criminal immigration laws. Still, we understand the need for compromise so that a comprehensive bill can gain broad support, and we applaud Rep. Gutierrez and Rep. Flake for seeking a solid middle ground for effective and humane immigration reform.

But in addition to the right policies, we need our federal government to show true courage and, to quote Texas Governor Rick Perry, “maturity” in facing up to this issue and putting real solutions into place. Neither party can afford to continue on their current path.

In my opinion, the fear-mongering and immigrant-bashing of last year contributed to the electoral disaster of Republicans last fall, and those who choose to pander to restrictionists and continue to alienate Latino and other immigrant voters will doom themselves to defeat. Last year, ICIRR and the Center for Community Change published a report, "Today We March, Tomorrow We Vote," documenting the potential growth of immigrant voting populations all across the country. More than 14 million potential new citizens or children of immigrants reaching voting age could participate in next year's elections. In at least 11 swing states these potential voters are greater in number than the difference between President Bush and Senator Kerry's vote totals. And already USCIS saw record numbers of immigrants, buoyed by last year's marches, applying for US citizenship so that they can fully participate as voters.

The Democratic Leadership can also not afford to just sit by, assume that the Minority will drive immigrant voters toward Democrats, and do nothing beyond paying lip service. Our votes cannot be taken for granted-- we need real reforms that will benefit not just us and our families, but our whole nation.

Now is time for both parties to show leadership and resolve our immigration crisis. We hope that this committee, this Congress, and this Administration, will take such leadership. Thank you.